



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Department of Ecology AO # 06-02

☒ Permanent Rule
☐ Emergency Rule

Effective date of rule:

Permanent Rules

- ☒ 31 days after filing.
☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- ☐ Immediately upon filing.
☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose: The purpose of this rule-making is to establish new oil spill prevention and response standards for facilities and vessels who transfer oil on or over the waters of the state, as mandated by the legislature. This rulemaking will:

- Adopt a new regulation (Chapter 173-180 WAC) that consolidates four existing facility oil spill prevention rules (WAC 173-180A, 173-180B, 173-180C, and 173-180D), recategorizes facilities into four distinct classes, and adds requirements for pre-booming bulk oil transfers, alternative measures to be used when pre-booming is not safe and effective, and advanced notice of transfer.
- Adopt a new regulation (Chapter 173-184 WAC) to set standards for delivering vessels for pre-booming bulk oil transfers, alternative measures to be used when pre-booming is not safe and effective, and advanced notice of transfer.

The Department of Ecology intends to repeal chapters 173-180A, 173-180B, 173-180C, and 173-180D WAC at a later date.

Citation of existing rules affected by this order:

Repealed:
Amended:
Suspended:

Statutory authority for adoption: RCW 88.46.160 and 88.46.165 and 90.56

Other authority:

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 06-12-119 on June 7, 2006.

Describe any changes other than editing from proposed to adopted version: Chapter 173-184 - *Vessel Oil Transfer Advance Notice and Containment Requirements* were originally proposed to be incorporated into existing Chapter 317-40 WAC. Due to comments received from the United States Coast Guard and a recent Massachusetts federal court decision, Ecology decided to focus on advanced notice and oil transfer containment requirements and remove proposed rules that were the subject of concern. Thus WAC 317-40 was not changed, and instead portions of the proposed rule were moved to a new chapter, WAC 173-184. For chapter 173-180 *Facility Oil Handling Standards*, the following are the major changes: boom requirements for Rate A transfers was changed from 4 x the largest vessel to 4 x the largest vessel or 2000 feet whichever is less, and the schedule dates for complying with pre-booming and alternative compliance were extended. See the Concise Explanatory Statement for WAC 173-180 and WAC 173-184, section II Describe Differences Between Proposed and Final Rule Language for additional information.

• A final cost-benefit analysis is available by contacting:

Name: Washington State Department of Ecology phone (360) 407-7390
Attn: Paul O'Brien fax (360) 407-7288
Address: P.O. Box 47600 e-mail oiltransferrule@ecy.wa.gov
Olympia, WA 98504-7600

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule

Reasons for this finding:

Date adopted:

9/25/06

NAME (TYPE OR PRINT)

Jay J. Manning

SIGNATURE

TITLE

Director, Department of Ecology

CODE REVISER USE ONLY
FILED

SEP 25 2006

11:55

06-20-034

AM
PM

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	<u>65</u>	Amended	<u>1</u>	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>1</u>	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>23</u>	Amended	<u>6</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	<u>66</u>	Amended	<u>1</u>	Repealed	_____